

UNITED STATES DISTRICT COURT  
DISTRICT OF PUERTO RICO

EFREN DÍAZ-RODRÍGUEZ, et al.,

Plaintiffs,

v.

HON. PEDRO TOLEDO-DÁVILA,  
et al.,

Defendants.

Civil No. 07-1808 (JAF)

**O R D E R**

On July 14, 2008, we issued an Opinion and Order denying Defendants' motion to dismiss. Docket No. 37. Also on July 14, 2007, Defendants filed a motion requesting that we clarify that order. Docket No. 38. They state that they raised three grounds for dismissal that we failed to address in our Opinion and Order: (1) that the claim against Defendants in their official capacities should be dismissed because they are entitled to Eleventh Amendment immunity; (2) that the complaint failed to state a claim of substantive due process under the Fourteenth Amendment; and (3) that the complaint failed to state a Fifth Amendment claim. Id.

We clarify that we did not address Defendants' Eleventh Amendment argument because Plaintiffs voluntarily dismissed all claims against Defendants in their official capacities. Docket No. 26. As to Defendants' second and third grounds for dismissal, we did not address their arguments with respect to Fourteenth and Fifth Amendment claims because we do not read the complaint as attempting

Civil No. 07-1808 (JAF)

-2-

1 to state a Fifth Amendment claim or a claim of substantive due  
2 process under the Fourteenth Amendment. See Docket No. 31.

3 We hereby **GRANT** Plaintiffs' motion to dismiss claims against  
4 Pedro Toleda-Dávila, Edwin Rivera-Merced, and all Defendants in their  
5 official capacities, Docket No. 26.

6 **IT IS SO ORDERED.**

7 San Juan, Puerto Rico, this 21<sup>st</sup> day of July, 2008.

8 S/José Antonio Fusté  
9 JOSE ANTONIO FUSTE  
10 U.S. District Judge  
11